

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DANIEL LARA HERMOSILLO, a.k.a.,)	
DANIEL HERMOSILLO LARA,)	
)	Case No. 4:05CV3240
Petitioner,)	
)	
vs)	MEMORANDUM
)	AND ORDER
MARIA DOLORES GUITERREZ,)	
)	
Respondent.)	

I have been advised that a Nebraska state district judge has enforced a Mexican decree awarding custody of the minor child to Petitioner. I have also been advised that the Nebraska state district judge did not decide any question pertaining to visitation rights.

Petitioner has filed a motion to dismiss and for an expedited telephone hearing. (Filing 75.) In that motion, Petitioner advises that he is returning to Mexico with the minor child.

An expedited telephone hearing was held on April 6, 2006, at about 3:00 PM. Counsel for both parties and the guardian ad litem participated.

The respondent objected to the motion to dismiss arguing, among other things, that she had not had sufficient time to review the motion and to determine the potential impact on her client if the motion was granted. In that regard, Respondent's counsel advised me that a settlement conference had been previously scheduled before Judge Gossett on May 18, 2006.¹

The guardian ad litem indicated that he was of two minds. While he questioned my jurisdiction to continue with this case, he also believed that the best interests of the minor child would be served if the issue of visitation was resolved.

I should decide the motion to dismiss before anything more happens in this case. It is also clear that none of my orders prevent the Petitioner from exercising his rights with respect

¹My review of the internal calendar maintained for Judge Gossett suggests, however, that the conference may have been cancelled on the assumption that I would grant the motion to dismiss. I will provide Judge Gossett with a copy of this memorandum and order so that he knows that I am considering, but have not yet granted, the motion to dismiss.

to the minor child as declared by Nebraska court or otherwise and that would include the right to return to Mexico with the child. That said, counsel for the Petitioner represented to me that the Petitioner would continue to respond to orders of this court, and, if ordered to do so, he would return with the child to the United States. With the foregoing in mind,

IT IS ORDERED that:

1. No later than Thursday, April 20, 2006, Respondent shall file a brief, with such supporting evidentiary materials as may be desired, explaining why this case should not be dismissed. No later than Thursday, April 27, 2006, Petitioner shall file a brief, with such supporting evidentiary materials as may be desired, explaining why this case should be dismissed. The parties are specifically instructed to address the question of the subject matter jurisdiction of this court given the recent decision of the Nebraska court to enforce the Mexican decree.
2. The motion to dismiss (filing 75) is held in abeyance. I will decide the motion to dismiss no later than Monday, May 8, 2006.
3. Petitioner is authorized to leave this country with the minor child upon the representation of his counsel that Petitioner will return with the minor child if ordered to do so.
4. If I do not grant the motion to dismiss, the settlement conference before Judge Gossett will be held at such time as he dictates. My chambers shall provide Judge Gossett with a copy of this memorandum and order.

April 6, 2006.

BY THE COURT:

s/Richard G. Kopf
United States District Judge